

THE DEFENDANT *IN REM*

2. The defendant properties listed above were seized on January 24, 2018, at the residence of Justin Graham at 116 Wabash Lane, Oak Ridge, Tennessee, pursuant to a consent search conducted by agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), and officers from local police departments.

3. The defendant properties are in the custody of the ATF.

JURISDICTION AND VENUE

4. Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendant properties. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

5. This Court has *in rem* jurisdiction over the defendant properties under 28 U.S.C. § 1355(b). Upon the filing of this complaint, the plaintiff requests that the Clerk issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b)(i). The plaintiff will then execute the warrant upon the defendant properties pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

6. Venue is proper in this district pursuant to 28 U.S.C. § 1355(b)(1)(A), because the acts or omissions giving rise to the forfeiture occurred in this district, and pursuant to 28 U.S.C. § 1395(b) because the properties are located in this district.

BASIS FOR FORFEITURE

7. The United States of America seeks forfeiture of the defendant properties pursuant to 18 U.S.C. § 924(d), which authorizes civil forfeiture of firearms in possession of unlawful users of a controlled substance, in violation of 18 U.S.C. § 922(g)(3).

FACTS

8. The facts and circumstances supporting the forfeiture of the defendant properties are as follows:

- a) On January 24, 2018, ATF Special Agent, Nina Osia received a phone call from the 7th Judicial Crime Task Force (“7th CTF”) in Anderson County in regards to information received that a firearm identified as a Llama 9mm (“stolen firearm”) had been sold to an individual identified as Justin Graham (“Graham”).
- b) On January 24, 2018, special agents of the ATF, the 7th CTF and an officer from the Anderson County Sheriff’s Office conducted an interview of Graham at his residence located at 116 Wabash Lane, Oak Ridge, Tennessee in regards to the stolen firearm.
- c) After advising Graham of his Miranda rights, agents spoke with Graham regarding the stolen firearm. While speaking with Graham, agents observed multiple glass pipes with marijuana residue sitting on the living room table. Graham advised agents he was a user of marijuana and used a couple times per week.
- d) Graham further advised agents that he lives at the residence with his girlfriend, Brittany Proffit (“Proffit”). After advising Proffit of her Miranda rights both Graham and Proffit agreed to sign a consent to search form for the residence. Agents located a Stallard Arms, JSO, 9mm pistol, serial number 088086 loaded with assorted 9mm ammunition in the bedroom of the residence. Graham advised agents that he bought the

firearm a few months back, but could not recall where he purchased the firearm.

- e) Agents seized the firearm and ammunition for possession of the firearm by an unlawful user of a controlled substance in violation of 18 U.S.C. § 922(g)(3).

CLAIM FOR RELIEF

9. The United States repeats and realleges each and every allegation set forth in paragraphs 1 through 8 above, including, the subparts thereof.

10. The defendant properties constitute properties involved in a violation of 18 U.S.C. § 922(g)(3). Accordingly, the defendant properties are subject to forfeiture to the United States in accordance with 18 U.S.C. § 924(d).

PRAYER FOR RELIEF

WHEREFORE, the United States of America prays that the Clerk issue a Warrant for Arrest *In Rem* for the defendant properties and that the defendant properties be condemned and forfeited to the United States of America in accordance with the provisions of law; that notice of this action be given to all persons known or thought to have an interest in or right against the defendant properties; and that the plaintiff be awarded its costs in this action and for such other necessary and equitable relief as this Court deems proper.

J. DOUGLAS OVERBEY
United States Attorney

By: s/*Anne-Marie Svolto*
Anne-Marie Svolto
Assistant United States Attorney
800 Market St., Suite 211
Knoxville, Tennessee 37902
(865) 545-4167

VERIFICATION

I, Special Agent Nina Osia, hereby verify and declare under penalty of perjury as provided by 28 U.S.C. § 1746, the following:

That I have read the foregoing Verified Complaint *In Rem* and know the contents thereof, and that the matters contained in the Verified Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief and as to those matters I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case, together with others, as a Special Agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

I hereby verify and declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed this 22nd day of June, 2018.



Nina Osia
Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Anne-Marie Svolto, AUSA, 800 Market Street, Ste. 211, Knoxville, TN 37902. (865) 545-4167.

DEFENDANTS

Stallard/Maverick JS9 9mm Pistol, SN: 088086; and
Forty-Five (45) Rounds of Assorted 9mm Ammunition

County of Residence of First Listed Defendant **ANDERSON**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. § 924(d)

Brief description of cause:

Forfeiture of firearm and ammunition pursuant to 18 U.S.C. § 924(d) in violation of 18 U.S.C. § 922(g)(3)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/25/2018

SIGNATURE OF ATTORNEY OF RECORD

s/Anne-Marie Svolto

FOR OFFICE USE ONLY

RECEIPT #

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The defendant properties are currently in the possession of the United States. In these circumstances, the Federal Rules of Civil Procedure, Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Rule G(3)(b)(i) directs the Clerk of the Court to issue a warrant to arrest the property if it is in the government's possession, custody or control.

Supplemental Rule G(3)(c)(i) provides that the Warrant of Arrest *In Rem* must be delivered to a person or organization authorized to execute it who may be a marshal or any other United States officer or employee, someone under contract with the United States, or someone specially appointed by the court for that purpose.

YOU ARE, THEREFORE, HEREBY COMMANDED to arrest the defendant properties as soon as practicable by serving a copy of this warrant on the custodian in whose possession, custody or control the properties are presently found, and to use whatever means may be appropriate to protect and maintain it in your custody until further order of this Court.

YOU ARE FURTHER COMMANDED, promptly after execution of this process, to file the same in this Court with your return thereon, identifying the individuals upon who copies were served and the manner employed.

IN WITNESS WHEREOF, I, Clerk of the United States District Court for the Eastern District of Tennessee, have caused the foregoing Warrant of Arrest *In Rem* to be issued pursuant to the authority of the Supplemental Rule G(3)(b)(i) and the applicable laws of the United States and have hereunto affixed the seal of the Court at Knoxville, Tennessee, this _____ day of _____, 2018.

John Medearis
Clerk of the Court
United States District Court

By: _____
Deputy Clerk

RETURN OF SERVICE

I hereby certify that I executed this warrant by serving _____ by
_____ on the _____ day of _____, 2018.

Nina Osia, Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives